

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION**

<b>RENE RIOS, JR. AND EMMA RIOS,</b> <i>Plaintiffs,</i>	§	
	§	
	§	
<b>v.</b>	§	<b>CIVIL ACTION NO. 7:15-cv-00399</b>
	§	
<b>ASI LLOYDS, VERICLAIM, INC., AND</b> <b>LARRY WILLIAMS,</b> <i>Defendants.</i>	§	
	§	

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**NOTICE OF REMOVAL**

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**TO THE HONORABLE UNITED STATES DISTRICT JUDGE:**

ASI Lloyds, Vericclaim, Inc. and Larry Williams file this Notice of Removal pursuant to 28 U.S.C. §1446(a) and respectfully shows the Court the following:

***Procedural Background***

1. On or about August 1, 2015, Plaintiffs filed Plaintiffs' Original Petition in the matter styled *Rene Rios, Jr. and Emma Rios v. ASI Lloyds, Vericclaim, Inc. and Larry Williams*; Cause No. C-4064-15-G; In the 370th Judicial District Court, Hidalgo County, Texas, in which Plaintiffs made a claim for damages under their homeowner's insurance policy with ASI Lloyds following a windstorm/hailstorm. ASI Lloyds' registered agent received this citation and petition on August 26, 2015. Defendants file this Notice of Removal within the thirty-day time period required by 28 U. S. C. § 1446(b).

2. Attached hereto as Exhibit "A" is the Index of Matters Being Filed. A copy of the Hidalgo County Clerk's file for this case is attached as Exhibit "B", which includes true and correct copies of all executed process, pleadings and orders, and a copy of *Defendants' Original Answer*. Attached hereto as Exhibit "C" is the Designation of Counsel.

***Basis for Removal***

3. Removal is proper under 28 U.S.C. §1332(a)(1). There is complete diversity of citizenship.

4. Plaintiffs are, and were at the time the lawsuit was filed, citizens of the State of Texas. *See* Plaintiffs' Original Petition, Section 2.

5. Defendant, ASI Lloyds was, and at the date of this Notice remains, an association of underwriters. The individual underwriters are as follows: Tanya J. Fjare, Trevor C. Hillier, Kevin R. Milkey, John F. Auer, Edwin L. Cortez, Mary F. Fournet, Philip L. Brubaker, Pat McCrink, Jeff Hannon and Angel Bostick. Each of these underwriters is a citizen of the State of Florida<sup>1</sup> "The United States Supreme Court has consistently held for over one hundred years that the citizenship of an unincorporated association [such as ASI Lloyds] is determined . . . solely by the citizenship of its members." *See Massey v. State Farm Lloyds Ins. Co.*, 993 F. Supp. 568, 570 (S.D. Tex. 1998); *see also Gore v. Stenson*, 616 F. Supp. 895, 898-899 (S.D. Tex. 1984) (recognizing years of Supreme Court precedent reaffirming the treatment of unincorporated associations for jurisdictional purposes). Accordingly, ASI Lloyds is not a citizen of the State of Texas.

6. Defendant VeriClaim, Inc. is, and was at the date of this Notice, a citizen of the states of Delaware and Illinois. Vericclaim, Inc. is a corporation incorporated under the laws of the State of Delaware, with its principal place of business in Naperville, Illinois.

7. Defendant Larry Williams is, and was at the date of this Notice, a citizen of the state of Indiana. In Plaintiffs' Original Petition, they assert that Larry Williams's place of residence is at 365 North West Hwy, Apt. 3709, Irving, Texas 75039. *See* Plaintiffs' Original

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<sup>1</sup> *See Royal Ins. Co. v. Quinn-L Capital Corp.*, 3 F.3d 877, 882-884 (5th Cir. 1993), *cert. denied*, 522 U.S. 815 (1997); *see also Bailey, et. al. v. State Farm Lloyds, et. al.*, Civil Action No. H-00-3638, 2001 U.S. Dist. LEXIS 15236, \*9 (S.D. Tex. 2001); *Massey*, 993 F. Supp. at 570.  
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Petition, ¶ 5. Nonetheless, the Larry Williams who worked with ASI Lloyds on this claim is domiciled at 10265 E. 550 N, Wilkinson, Indiana 46186 and is, therefore, a citizen of the State of Indiana.

8. In determining the amount in controversy, the court may consider “policy limits... penalties, statutory damages, and punitive damages.” *St. Paul Reinsurance Co., Ltd v. Greenberg*, 134 F.3d 1250, 1253 (5th Cir. 1998); *see Ray v. State Farm Lloyds*, No. CIV.A.3:98-CV-1288-G, 1999 WL 151667, at \* 2-\*3 (N.D. Tex. Mar. 10, 1999) (finding a sufficient amount in controversy in plaintiff’s case against their insurance company for breach of contract, fraud, negligence, gross negligence, bad faith, violations of the Texas Insurance Code, violations of the Texas Deceptive Trade Practices Act, and mental anguish); *Fairmont Travel, Inc. v. George S. May Int’l Co., et. al.*, 75 F.Supp.2d 666, 668 (S.D. Tex. 1999) (considering DTPA claims and the potential for recovery of punitive damages for the amount in controversy determination); *Chittick v. Farmers Insurance Exchange*, 844 F.Supp. 1153, 1155 (S.D. Tex. 1994) (finding a sufficient amount in controversy after considering the nature of the claims, the types of damages sought and the presumed net worth of the defendant in a claim brought by the insureds against their insurance company for actual and punitive damages arising from a claim they made for roof damages).

9. The amount in controversy in this case exceeds the jurisdictional requirements of this court. Plaintiffs’ Original Petition clearly states that Plaintiffs seek damages in excess of \$200,000.00. *See* Plaintiffs’ Original Petition, Section 6. This evidence clearly demonstrates that the amount in controversy in this case exceeds the jurisdictional requirements.

***The Removal is Procedurally Correct***

10. ASI Lloyds was first served with the petition on August 26, 2015. ASI Lloyds, Vericclaim, Inc. and Larry Williams file this Notice of Removal within the 30-day time period

required by 28 U.S.C. §1446(b).

11. Venue is proper in this district under 28 U.S.C. §1446(a) because this district and division embrace the place in which the removed action has been pending and because a substantial part of the events giving rise to the Plaintiffs' claims allegedly occurred in this district.

12. Pursuant to 28 U.S.C. §1446(a), all pleadings, process, orders, and all other filings in the state court action are attached to this Notice.

13. Pursuant to 28 U.S.C. §1446(d), promptly after ASI Lloyds, Vericclaim, Inc., and Larry Williams file this Notice, written notice of the filing will be given to Plaintiffs, the adverse party.

14. Pursuant to 28 U.S.C. §1446(d), a true and correct copy of this Notice of Removal will be filed with the Clerk of the Hidalgo County Court promptly after ASI Lloyds, Vericclaim, Inc., and Larry Williams file this Notice.

Respectfully submitted,

/s/ Jay Scott Simon

Jay Scott Simon

Attorney-in-Charge

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**ATTORNEY FOR DEFENDANTS**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was duly served pursuant to Federal Rules of Civil Procedure on counsel for Plaintiffs, Rene Rios, Jr. and Emma Rios, by and through their attorney of record, Rene M. Sigman, 3810 W. Alabama Street, Houston, Texas 77027, on the 21st day of September, 2015.

/s/ Jay Scott Simon

Jay Scott Simon